

SCOTT N. SCHOOLS (SCBN 9990)  
United States Attorney  
JOANN M. SWANSON (SBN 88143)  
Chief, Civil Division  
JAMES A. SCHARF (CSBN 152171)  
Assistant United States Attorney

150 Almaden Blvd., Suite 900  
San Jose, California 95113  
Telephone: (408) 535-5082  
FAX: (408) 535-5081  
james.scharf@usdoj.gov

Attorneys for Defendant  
John E. Potter, Postmaster General,  
United States Postal Service

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

|                               |   |                              |
|-------------------------------|---|------------------------------|
| GURMAIL S. BATH,              | ) | Case No. C 07 03521 HRL      |
|                               | ) |                              |
| Plaintiff,                    | ) | ANSWER OF DEFENDANT JOHN E.  |
|                               | ) | POTTER, POSTMASTER GENERAL,  |
| v.                            | ) | UNITED STATES POSTAL SERVICE |
|                               | ) |                              |
| JOHN E. POTTER, POSTMASTER    | ) |                              |
| GENERAL, UNITED STATES POSTAL | ) |                              |
| SERVICE                       | ) |                              |
|                               | ) |                              |
| Defendants.                   | ) |                              |

Defendant John E. Potter, Postmaster General, United States Postal Service, without waiving the below-listed Affirmative Defenses, answers and otherwise responds to the Complaint as follows. All paragraph references are to the Complaint.

1. Deny based upon lack of information and belief.
2. Deny; Defendant Potter is the Postmaster General and the chief executive officer of the U.S. Postal Service. His office is located in Washington, DC.
3. Legal conclusion to which no response is required.
4. Legal conclusion to which no response is required.
5. Deny.

1 6. Deny.

2 7. Deny.

3 8. Admit that Plaintiff filed a formal EEO Complaint with the Postal Service on February 11,  
4 2002; deny the remainder of the allegations of this paragraph.

5 9. Admit that the Equal Employment Opportunity Commission denied Plaintiff's Request for  
6 Reconsideration of its December 24, 2006 Decision on April 26, 2007; deny the remainder of the  
7 allegations of this paragraph.

8 10. Legal conclusion to which no response is required.

9 11. Prayer for relief to which no response is required.

10 Affirmative Defenses

11 1. The Complaint does not state a claim for which relief can be granted.

12 2. Plaintiff cannot prove a prima facie case of discrimination.

13 3. Plaintiff is not an individual with a disability within the meaning of the Rehabilitation Act  
14 of 1973.

15 4. Any actions of the Postal Service were taken for non-discriminatory, non-pretextual  
16 reasons.

17 5. If plaintiff is awarded compensatory damages, that award is limited to \$300,000. 42  
18 U.S.C. Section 1981a(b)(3)(D).

19  
20 WHEREFORE, the defendant prays that plaintiff takes nothing in this action that the  
21 complaint be dismissed with costs to the defendant, and that this Court grant such other relief as  
22 it may deem appropriate.

23  
24 DATED: December 6, 2007

Respectfully submitted,

25 SCOTT N. SCHOOLS  
26 United States Attorney

27 /s/ James A. Scharf

28 JAMES A. SCHARF  
Assistant United States Attorney

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that she is an employee of the Office of the United States Attorney for the Northern District of California and is a person of such age and discretion to be competent to serve papers. The undersigned further certifies that she is causing a copy of the following:

**ANSWER OF DEFENDANT JOHN E. POTTER,  
POSTMASTER GENERAL, UNITED STATES POST SERVICE**

**Gurmail S. BATH v. JOHN E. POTTER, Postmaster General**  
**Case No. C 07-03521 HRL**

to be served this date upon the party(ies) as follows:

☒ **FIRST CLASS MAIL** by placing such envelope(s) with postage thereon fully prepaid in the designated area for outgoing U.S. mail in accordance with this office's practice.

☐ **CERTIFIED MAIL (#)** by placing such envelope(s) with postage thereon fully prepaid in the designated area for outgoing U.S. mail in accordance with this office's practice.

☐ **PERSONAL SERVICE (BY MESSENGER)**

☐ **FACSIMILE (FAX)** Telephone No.: \_\_\_\_\_

☐ **FEDERAL EXPRESS**

☐ **HAND-DELIVERED**

to the parties addressed as follows:

**Israel Gaxiola Ramirez**  
**Israel Ramirez, Esq**  
**653 North San Pedro Street, Suite C**  
**San Jose, CA 95110**

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 6th day of December, 2007, at San Jose, California.

\_\_\_\_\_/s/\_\_\_\_\_  
Mimi Lam  
Legal Assistant